IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH JANUARY 2007 / 14TH POUSHA, 1928

Crl.MC.No. 35 of 2007()

CC.778/2005 of JUDL.MAGISTRATE OF FIRST CLASS, ETTUMANUR

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PETITIONER: DEFACTO COMPLAINANT

BELVY VARGHESE, D/O. VARKEY,
AGED 25 YEARS, KUZHUPPILLIL HOUSE,
KADAMATTOM KARA, IKKARANADU NORTH VILLAGE,
KUNNATHUNADU TALUK.

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS: ACCUSED NOS.1 TO 4 & COMPLAINANT

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1. GIJO M. GEORGE, S/O. M.C.GEORGE,
AGED 28 YEARS, MOOLAKKATTU HOUSE,
MANNANAM KARA, ATHIRAMPUZHA, KOTTAYAM DISTRICT.

2. M.C.GEORGE,
MOOLAKKATTU HOUSE, MANNANAM P.O.,
ATHIRAMPUZHA VILLAGE, KOTTAYAM DISTRICT.

3. MARIYAMMA @ GRACYKUTTY, W/O. M.C.GEORGE,
MOOLAKKATTU HOUSE, MANNANAM P.O.,
ATHIRAMPUZHA VILLAGE, KOTTAYAM DISTRICT.

4. GINSU M. GEORGE, S/O. M.C.GEORGE,
MOOLAKKATTU HOUSE, MANNANAM P.O.,
ATHIRAMPUZHA VILLAGE, KOTTAYAM DISTRICT.

5. STATE OF KERALA, REPRESENTED BY
S.I. OF POLICE, GANDHI NAGAR POLICE STATION,
KOTTAYAM, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

R5 BY PUBLIC PROSECUTOR SRI.K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 35 of 2007

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Dated this the 4th day of January, 2007

O R D E R

The petitioner is the defacto complainant in a prosecution under Section 406 and 498A r/w. 34 I.P.C. Cognizance has been taken by the learned Magistrate against the respondents, who are the husband and relatives of the husband of the petitioner. Cognizance has been taken on the basis of the final report submitted by the police after due investigation. Proceedings are pending as C.C.No. 778 of 2005 before the learned J.F.C.M. Court, Ettumanoor.

2. The petitioner has come to this Court to report to the court that the matter has been harmoniously settled between the petitioner and the respondents. All controversies have been resolved and the petitioner has compounded the offence allegedly committed by the respondent/accused. In these circumstances it is submitted that the prosecution has lost its relevance and significance and it will be a traversity of justice to permit the prosecution to continue and to compel the petitioner to continue with the prosecution. In these circumstances it is prayed that powers under Section 482 Cr.P.C. may

be invoked and the proceedings initiated against the respondents may be quashed.

3. The offence under Section 498A I.P.C. is not compoundable. But it is pointed out that in the wake of the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386), the proceedings can be quashed, in the interests of justice, which must occasionally in a case like the instant one, transcend the interests of mere law. The prayer of the petitioner may be accepted, it is prayed.

4. Notice is given to the learned Public Prosecutor. The learned Prosecutor does not raise any serious objection. I am satisfied in the facts and circumstances that this is a fit case where such powers under Section 482 Cr.P.C. can be invoked in the interests of justice as requested by the defacto complainant/petitioner, notwithstanding the fact that the offence alleged is not compoundable.

5. This Crl.M.C. is hence allowed. C.C.No.778 of 2005 pending before the J.F.C.M. Court, Ettumanoor on the basis of the complaint filed by the petitioner is hereby quashed.

(R. BASANT)
Judge

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